

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

SYLVAN HEMINGWAY,
Petitioner,

v.

TAMMY FERGUSON, et al.,
Respondents

CIVIL ACTION

No. 16-cv-02509-GAM

FILED

SEP 11 2017

KATE BARKMAN, Clerk
By _____ Dep. Clerk

AND NOW this 11TH day of SEP 2017, 2017, upon careful and independent consideration of Sylvan Hemingway's petition for writ of habeas corpus (Doc. No. 1), the Commonwealth's response in opposition (Doc. No. 6), and the Report and Recommendation of U.S. Magistrate Judge Richard A. Lloret, it is ORDERED that:

1. The Report and Recommendation of Magistrate Judge Richard A. Lloret is APPROVED and ADOPTED;
2. Hemingway's Petition for Writ of Habeas Corpus is DENIED and DISMISSED with prejudice by separate Judgment; filed contemporaneously with this Order. See Federal Rule of Civil Procedure 58(a); Rules Governing Section 2254 Cases in the United States District Courts, Rule 12;
3. No certificate of appealability shall issue under 28 U.S.C. § 2253(c)(1)(A) because "the applicant has [not] made a substantial showing of the denial of a constitutional right[.]" under 28 U.S.C. § 2253(c)(2), since he has not demonstrated that "reasonable jurists" would find my "assessment of the constitutional claims debatable or wrong." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); see *United States v. Cepero*, 224 F.3d 256, 262-63 (3d Cir. 2000), abrogated on other grounds by *Gonzalez v. Thaler*, ____ U.S. ____, 132 S. Ct. 641 (2012); and,

4. The Clerk of Court shall mark this file closed.

BY THE COURT:



GERALD A. MCHUGH
U.S. District Judge